



CITY COUNCIL AGENDA REPORT

MEETING DATE: OCTOBER 18, 2005

ITEM NUMBER:

SUBJECT: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA AMENDING TITLE 20 OF THE COSTA MESA MUNICIPAL CODE REGARDING THE USE OF TEMPORARY FENCING ON VACANT PROPERTIES.

DATE: OCTOBER 5, 2005

FROM: DEVELOPMENT SERVICES DEPARTMENT/PLANNING DIVISION

PRESENTATION BY: KIMBERLY BRANDT, AICP, PRINCIPAL PLANNER

FOR FURTHER INFORMATION CONTACT: KIMBERLY BRANDT (714) 754-5604

RECOMMENDATION:

The Planning Commission recommends that City Council give first reading to the attached ordinance.

BACKGROUND/ANALYSIS:

The City's Property Maintenance Regulations (Title 20) include standards for the maintenance of vacant properties. The City does not require any temporary perimeter fencing if a property is vacant. For instance, 1901 Newport Boulevard was vacant for a number of years without any fencing on the property's perimeter. Staff's concern is that there are a limited number of vacant properties in the City that have been secured with chain link fencing, and in some instances, the fencing is in poor condition. An example would be the northwest corner of Mesa Verde Drive East and Harbor Boulevard, a portion of Mesa Verde Center, where there has been an ongoing Code Enforcement concern regarding the appearance of the perimeter fencing (see Attachment 2). This vacant site formerly contained Kona Lanes and has been vacant for two years. Given that there is no application pending for a new commercial use to be constructed at this location, this property may remain vacant for an unknown period of time.

The proposed code change adds specific language to the Property Maintenance regulations that if temporary fencing is placed on a vacant parcel, it shall be maintained in good repair, and if not, the Fire Chief or Building Official may order its removal and replacement.

On a 5-0 vote, Planning Commission recommended to Council that this ordinance be given first reading. For additional background information, please see the Planning Commission meeting minutes and staff minutes included in Attachment 2.

ALTERNATIVES CONSIDERED:

Council may choose to:

1. Modify the ordinance in respect to any of the recommended changes to the Property Maintenance Regulations; or
2. Retain the City's existing provisions.

FISCAL REVIEW:

This ordinance does not require any fiscal review.

LEGAL REVIEW:


The City Attorney's Office has reviewed the ordinance and approved it as to form.


ENVIRONMENTAL DETERMINATION

This code amendment has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City's environmental procedures, and has been found to be exempt.

CONCLUSION:

The Planning Commission recommends that Council give first reading to the attached ordinance regarding the use of temporary fencing on vacant properties.


KIMBERLY BRANDT, AICP
Principal Planner


DONALD D. LAMM, AICP
Deputy City Mgr. – Dev. Svs. Director

DISTRIBUTION: City Manager
Assistant City Manager
City Attorney
Deputy City Manager – Dev. Svs. Director.
Public Services Director
Building Official
Chief Code Enforcement Officer
City Clerk (2)
Staff (4)
File (2)

ATTACHMENTS: 1 Ordinance
2 Planning Commission meeting minutes
and staff report

File Name: 101805TempFencing	Date: 092805	Time: 10:00 a.m.
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ATTACHMENT 1

ORDINANCE

ORDINANCE NO. 05-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA AMENDING TITLE 20 OF THE COSTA MESA MUNICIPAL CODE REGARDING AND USE OF TEMPORARY FENCING ON VACANT PROPERTIES.

THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS
FOLLOWS:

Section 1. Title 20 of the Costa Mesa Municipal Code is hereby amended to read as follows:

a. Amend Section 20-9(b)(2) as follows:

(2) **"Fencing.** If required by the Fire Chief or Building Official, the property shall be fenced on all sides with a chain link fence or other type of secure fencing at a minimum height of 6 feet from grade, or greater. The Planning Division shall review and approve the temporary fence location and material(s). The property owner shall maintain the fence in good repair and condition. If the fence is not maintained properly, the Fire Chief or Building Official may order its removal and replacement. The fence shall be properly posted with no trespassing signs, and kept clear of all other signs, except lawfully installed real estate signs for the lease or sale of the property and signs identifying ownership of the property or fencing."

Section 2. Environmental Determination. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City's environmental procedures, and has been found to be exempt.

Section 3. Inconsistencies. Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to affect the provisions of this Ordinance.

Section 4. Severability. If any chapter, article, section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance or its application to other persons. The City Council hereby declares that it would have adopted this Ordinance and each chapter, article, section, subsection, subdivision, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, phrases, or portions of the application thereof to any person, be declared invalid or unconstitutional. No portion of this Ordinance shall supersede any local, State, or Federal law, regulation, or codes dealing with life safety factors.

Section 5: This Ordinance shall take effect and be in full force thirty (30) days from and after the passage thereof and prior to the expiration of fifteen (15) days from its passage shall be published once in the ORANGE COAST DAILY PILOT, a newspaper of general circulation, printed and published in the City of Costa Mesa or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the office of the City Clerk five (5) days prior to the date of adoption of this Ordinance, and within fifteen (15) days after adoption, the City Clerk shall cause to be published the aforementioned summary and shall post in the office of the City Clerk a certified copy of this Ordinance together with the names and member of the City Council voting for and against the same.

PASSED AND ADOPTED this ____ day of _____, 2005

Mayor

ATTEST:

APPROVED AS TO FORM:

City Clerk of the
City of Costa Mesa

City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, Julie Folcik, Deputy City Clerk and ex-officio clerk of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Ordinance No. 05-__ was introduced and considered section by section at a regular meeting of said City Council held on the ____ day of _____, 2005, and thereafter passed and adopted as a whole at a regular meeting of said City Council held on the ____ day of _____, 2005, by the following roll call vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Costa Mesa this ____ day of _____, 2005.

Deputy City Clerk and ex-officio
Clerk of the City Council of the
City of Costa Mesa

ATTACHMENT 2

PLANNING COMMISSION MEETING MINUTES AND STAFF REPORTS

Excerpt from the Minutes of the Planning Commission meeting of September 26, 2005

ORDINANCE REGARDING
THE USE OF TEMPORARY
FENCING ON VACANT
PROPERTIES

City

The Chair opened the public hearing for consideration of an ordinance regarding the Use of Temporary Fencing on Vacant Properties for the City Council of the City of Costa Mesa, California, amending Title 20 of the Costa Mesa Municipal Code. Environmental determination: exempt.

Principal Planner Kimberly Brandt reviewed the information in the staff report and gave a presentation. She said staff was recommending that Planning Commission recommend to City Council to give ordinance first reading.

There was discussion between the Chair and staff regarding staff's review of the chain link fencing and making sure it has adequate support and does not fall over.

Commissioner Egan made some wording changes and additions that staff was in agreement with.

No one else wished to speak and the Chair closed the public hearing.

MOTION:
Temporary Fencing on
Vacant Properties
Recommended to City Council

A motion was made by Commissioner Garlich, seconded by Chair Perkins and carried 5-0 to modify the ordinance as shown below and recommended to City Council that the ordinance be given first reading:

Section 1. Title 20 of the Costa Mesa Municipal Code is hereby amended to read as follows:

a. Amend Section 20-9(b)(2) as follows:

(2) "Fencing. If determined by the Fire Chief or Building Official, the property shall be fenced on all sides with a chain link fence or other type of secure fencing at a minimum height of 6 feet from grade, or greater. The Planning Division shall review and approve the temporary fence location and material(s). The property owner shall maintain the fence in good repair and condition. If the fence is not maintained properly, the Fire Chief or Building Official may order its removal and replacement. The fence shall be properly posted with no trespassing signs, and kept clear of all other signs, except lawfully installed real estate signs for the lease or sale of property and signs identifying ownership of the property or fencing."

Mr. Robinson advised that these ordinances (as shown above) would be going to the City Council on their agenda of October 18th.



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: SEPTEMBER 26, 2005

III.5.
ITEM NUMBER:

SUBJECT: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA AMENDING TITLE 20 OF THE COSTA MESA MUNICIPAL CODE REGARDING THE USE OF TEMPORARY FENCING ON VACANT PROPERTIES.

DATE: SEPTEMBER 15, 2005

FOR FURTHER INFORMATION CONTACT: KIMBERLY BRANDT, AICP, PRINCIPAL PLANNER
(714) 754-5604

DESCRIPTION

An ordinance to amend Title 20, the Property Maintenance Code, regarding the use of temporary fencing on vacant properties.

RECOMMENDATION

Staff recommends that Planning Commission recommend to City Council that the ordinance be given first reading.



KIMBERLY BRANDT, AICP
Principal Planner

BACKGROUND

On August 22, 2005, staff presented to Planning Commission a draft ordinance that included an amendment to the Zoning Code to prohibit the installation of chain link fencing on non-residential properties and a provision to require the removal of existing chain link fencing in conjunction with issuance of building permits that are valued at \$30,000 or more. This provision is currently in place for residential properties. Commission continued the ordinance to September 26, 2005.

After further consideration, staff has narrowed the focus of the code change to use of temporary fencing (which may include chain link fencing) on vacant properties. As such, the ordinance amends Title 20, Property Maintenance Code, as opposed to Title 13, Zoning Code. Typically, Commission does not review any amendments to the Property Maintenance Code, but staff believes that Commission's recommendations to Council are appropriate on this code change.

ANALYSIS

The Property Maintenance Code includes standards for the maintenance of vacant properties. The City does not require any temporary perimeter fencing if a property is vacant. For instance 1901 Newport Boulevard was vacant for a number of years without any fencing on the property's perimeter. Staff's concern is that there are a limited number of vacant properties in the City that have been secured with chain link fencing, and in some instances, the fencing is in poor condition. An example would be the northwest corner of Mesa Verde Drive East and Harbor Boulevard, a portion of Mesa Verde Center, where there has been an ongoing Code Enforcement concern regarding the appearance of the perimeter fencing (see attached photographs). This vacant site formerly contained Kona Lanes and has been vacant for two years. Given that there is no application pending for a new commercial use to be constructed at this location, this property may remain vacant for an unknown period of time.

The proposed code change would add specific language to the Title 20 article that states that temporary perimeter fencing placed on a vacant parcel must be maintained in good repair, and if not, the Fire Chief or Building Official may order its removal. Additionally, the Planning Division will review and approve the location and type of fencing. The recommended language is shown below.

- (2) **"Fencing.** The property shall be fenced on all sides ~~along the property line~~ with a chain link fence or other type of secure fencing at a minimum height of 6 feet from grade, or greater, as determined by the Fire Chief or Building Official. The Planning Division shall review and approve the fence location and material(s). The property owner shall maintain the temporary fence in good repair and condition. If the fence is not maintained properly, the Fire Chief or Building Official may order its removal. The fence shall be properly posted with no trespassing signs, and kept clear of all other signs, except lawfully installed real estate signs for the lease or sale of the property and signs identifying ownership of the property or fencing."

ALTERNATIVES CONSIDERED:

Commission may choose to do any of the following:

1. Recommend to Council that first reading be given to the ordinance as recommended by the staff;
2. Modify any of the recommended changes to the ordinance; or
3. Recommend to Council that the City's existing municipal provisions be retained.

ENVIRONMENTAL DETERMINATION

This code amendment has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City's environmental procedures, and has been found to be exempt.

Attachments: ~~1. Proposed Ordinance – (strike-through version)~~
 2. Existing Title 20 excerpt
 3. Photographs

Distribution: Deputy City Manager - Dev. Svs. Director
 Senior Deputy City Attorney
 Public Services Director
 City Engineer
 Chief of Code Enforcement
 Fire Protection Analyst
 Staff (4)
 File (2)

File: 092605TempFencing	Date: 091505	Time: 9:00 a.m..
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ATTACHMENT 2

EXISTING TITLE 20 PROVISION

ARTICLE 3. MAINTENANCE STANDARDS FOR VACANT PROPERTIES

Sec. 20-9. Standards for vacant real property.

(a) **Mandatory standards.** All vacant real property in the city shall be secured and maintained at a level not less than the following standards during the time period that such property remains vacant real property:

- (1) **Graffiti.** All structures, equipment, walls, and fencing on the property shall be maintained free of graffiti pursuant to Chapter VII½ of Title 11.
- (2) **Rubbish, litter and weeds.** All landscaped, concrete, dirt, or paved open areas on the real property and adjoining public parkway shall be kept clear of rubbish, litter, and weeds.

(b) **Additional standards.** When deemed necessary by the Fire Chief or Building Official, and/or in order to maintain the safety of persons or property, the following standards may also be imposed:

- (1) **Access points.** All windows, doors, and other open access features to the structures on the real property shall be boarded up and secured in compliance with the standard attached as Exhibit A to the ordinance adopting this title. All boards visible from the building's exterior shall be painted to match the building's exterior.
- (2) **Fencing.** The property shall be fenced on all sides along the property line with a chain link fence or other type of secure fencing at a minimum height of 6 feet from grade, or greater, as determined by the fire chief or building official. The fence shall be properly posted with no trespassing signs, and kept clear of all other signs, except lawfully installed real estate signs for the lease or sale of the property and signs identifying ownership of the property or fencing.
- (3) **Security lighting.** All structures which could be used for human habitation shall have an operable and effective exterior security lighting system. The front and rear yards shall each be illuminated with a minimum of one light. The lighting shall be capable of illuminating the structure's exterior so as to be visible from the street or alley from dusk to dawn. However, the lights shall be shielded to avoid lighting adjacent properties.

Sec. 20-10. Compliance responsibility.

Compliance with the standards contained in this article shall be at the sole cost of the responsible party for the vacant real property and shall not limit the remedies or recovery of costs for the abatement of any vacant real property found to be in violation by city council or its designee pursuant to this Code.







